



**UNITED STATES OF AMERICA
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY
ATLANTA REGION**

**UNITED STATES DEPARTMENT OF THE ARMY
UNITED STATES ARMY AVIATION WARFIGHTING CENTER,¹
FORT RUCKER, ALABAMA**

**UNITED STATES DEPARTMENT OF THE ARMY,
UNITED STATES ARMY FORCES COMMAND,
U. S. ARMY AIR TRAFFIC SERVICES COMMAND,
FORT RUCKER, ALABAMA
(Agencies/Petitioner)**

AND

**AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, AFL-CIO, LOCAL 1815,
FORT RUCKER, ALABAMA**

**WIREGRASS METAL TRADES COUNCIL,
FORT RUCKER, ALABAMA
(Labor Organizations/Petitioner)**

AND

**UNITED STATES ARMY DENTAL CLINIC COMMAND
FORT RUCKER, ALABAMA**

**UNITED STATES ARMY AEROMEDICAL CENTER
FORT RUCKER, ALABAMA**

**UNITED STATES ARMY COMBAT READINESS CENTER
FORT RUCKER, ALABAMA**

**UNITED STATES ARMY TECHNICAL TEST CENTER
FORT RUCKER, ALABAMA**

**UNITED STATES ARMY INSTALLATION MANAGEMENT AGENCY
FORT RUCKER, ALABAMA**

**UNITED STATES ARMY CONTRACTING AGENCY
FORT RUCKER, ALABAMA
(AGENCIES)**

¹ Shortly before I issued this Decision and Order, the parties informed this Office that the United States Army Aviation Center was renamed as the United States Army Aviation Warfighting Center. The first record of the name change is via e-mail dated October 21, 2006.. For historical purposes (and for clarity), throughout the Decision and Order, I will use the former name of the activity, United States Army Aviation Center (USAAVNC), but will use the current name, Army Aviation Warfighting Center, in the above caption, the Order (Part IV) and attached certifications.

DECISION AND ORDER

I. JURISDICTION

This case (Case Number AT-RP-05-0021) is before the undersigned Regional Director of the Federal Labor Relations Authority (the Authority or FLRA) based on a joint petition filed by the:

- United States Department of the Army, United States Army Aviation Center, Fort Rucker, Alabama (USAAVNC);
- United States Department of the Army, U.S. Army Air Traffic Services Command, Fort Rucker, Alabama (ATSCOM or the Activity);
- American Federation of Government Employees, AFL-CIO, Local 1815, Fort Rucker, Alabama (AFGE Local 1815); and
- Wiregrass Metal Trades Council, Fort Rucker, Alabama (WMTC).

pursuant to section 7111(b)(2) of the Federal Service Labor-Management Relations Statute (the Statute), 5 U.S.C. §7111(b)(2), and section 2422.1(b) of the Authority's Rules and Regulations (the Regulations), 5 C.F.R. § 2422.1(b).

In the petition, the Activity, ATSCOM, seeks to determine the representational status of its current employees, who are made up of employees previously employed by USAAVNC and represented in two separate bargaining units. These employees were transferred from USAAVNC to ATSCOM. Specifically, the Activity seeks a determination that it is a successor employer for those employees who were realigned from USAAVNC to ATSCOM from two separate bargaining units. First ATSCOM claims it is the successor employer of those employees transferred from the bargaining unit represented by Wiregrass Metal Trades Council. Second, ATSCOM claims it is the successor employer of those employees transferred from the bargaining unit represented by American Federation of Government Employees, AFL-CIO, Local 1815. Pursuant to the provisions of section 7105(e)(1) of the Statute, the Authority has delegated its powers in connection with the subject case to me in my role as Regional Director. Based on my investigation and the parties' stipulations, I find and conclude as follows:²

²The parties have waived their rights to a hearing in this matter as well as their right to file an application for review under section 2422.3(d) of the Authority's Rules and Regulations.

II. FACTS

1. On August 12, 1965, pursuant to Executive Order 10988, WMTC was recognized as the exclusive representative for a bargaining unit of non-supervisory wage grade employees at Fort Rucker, Alabama. Thereafter, the recognition was amended on May 3, 1974, August 13, 1974, and August 18, 2005. On May 7, 2004, in Case No. AT-RP-04-0028, the unit was consolidated as follows:

INCLUDED: All Wage Grade employees assigned to the U.S. Army Aviation Center, the U.S. Army Aeromedical Center, and the U.S. Army Installation Management Agency, Fort Rucker, Alabama.

EXCLUDED: All Wage Grade employees of other tenant activities, nonsupervisory General Schedule employees, professional employees, guards, management officials, supervisors and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

2. On May 23, 1968, pursuant to Executive Order 10988, AFGE Local 1815 was recognized as the exclusive representative of certain employees at Fort Rucker, Alabama. On August 24, 1979, in Case No. 4-UC-1, the units represented by AFGE Local 1815 were consolidated. On June 14, 1995, in Case No. AT-RP-50028, AFGE Local 1815 was certified as the exclusive representative of the nonprofessional-general-schedule employees at Fort Rucker, Alabama. On April 16, 2005, in Case No. AT-RP-04-0020, the unit was amended to add the U.S. Army Installation Management Agency (IMA) and the U.S. Army Contracting Agency (ACA). On April 13, 2005, in AT-RP-04-0051, a position was excluded from the unit represented by AFGE Local 1815. The unit was most recently described as follows:

INCLUDED: All nonprofessional nonsupervisory General Schedule employees at the United States Army Safety Center, all professional and nonprofessional nonsupervisory General Schedule employees of the U.S. Army Aviation Center and Fort Rucker; the United States Army Aeromedical Center; the United States Army Dental Clinic Command; and the employees in the U.S. Army Aviation Technical Test Center; the U.S. Army Installation Management Agency (IMA); and the U.S. Army Contracting Agency (ACA), Fort Rucker, Alabama.

EXCLUDED: All employees assigned to other tenant activities, guards, temporary employees, professional employees of the U.S. Army Safety Center, the Aerospace Engineering Technician GS-0802-7/8/9 position assigned to the Army Aviation Technical Test Center (ATTC) Test Support Directorate

(TSD), and employees defined in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).³

3. The overall mission of the USAAVNC is to meet the Nation's commitments by training military, civilian and international personnel in aviation and leadership skills to meet the readiness needs of the Army and the Nation by: developing the doctrine, training, leaders, organization, material, and soldiers for Army Aviation's future war fighting requirements; managing available resources efficiently; and sustaining the Nation's commitment to soldiers, civilians and families by providing facilities and services in a safe and secure environment that fosters a superior quality of life.
4. On August 1, 2003, the U.S. Army Air Traffic Control Activity (USAATCA), a component within USAAVNC, was discontinued as a unit by Permanent Order No. 213-2, with an effective date of August 14, 2003.
5. On August 1, 2003, the US Army Air Traffic Services Command (ATSCOM) was established by Permanent Order No. 213-1, with an effective date of August 15, 2003.
6. On August 15, 2003, the assets of the USAATCA, were transferred to ATSCOM. Permanent Order No. 213-1 attached ATSCOM to USAAVNC and Fort Rucker. One (1) wage grade employee (formerly a part of the unit described in paragraph 1) was realigned to ATSCOM from USAATCA. Nineteen (19) general schedule employees (formerly a part of the unit described in paragraph 2) were transferred to ATSCOM.
7. Prior to the transfer, the Aviation Training Brigade (ATB), 1st Battalion, 11th Aviation Regiment (Provisional) was a battalion within the ATB organization, assigned to the U.S. Army Training and Doctrine Command (TRADOC), USAAVNC, Fort Rucker, Alabama. Effective August 15, 2003, the Aviation Training Brigade (ATB), 1st Battalion, 11th Aviation Regiment, (Provisional), Fort Rucker, Alabama was assigned to ATSCOM by Permanent Order 226-1 dated August 14, 2003. No wage grade employees were realigned from ATB to ATSCOM. Sixty-eight (68) general schedule employees were transferred from ATB to ATSCOM.
8. The remainder of ATB not realigned to ATSCOM is still assigned to TRADOC, USAAVNC, Fort Rucker, Alabama. Prior to and after the transfer, the mission of the 11th Aviation Regiment is as follows: plans, coordinates and executes Air Traffic Control Services for USAAVNC, Fort Rucker and the National Airspace System. Since the transfer of the 11th Regiment from ATB, ATB was renamed the 110th Aviation Brigade.
9. Effective 15 August 2003, IAW Permanent Orders 224-3 dated 12 August 2003, F Company, General Support Maintenance (GSM), 58th Aviation, a

³ This reflects a correction to AT-RP-04-0051 as a result of Case No. AT-RP-04-0020.

unit attached to USAAVNC but assigned to HQ, FORSCOM, was formally assigned to ATSCOM. Three wage grade employees were realigned from F Company, GSM, 58th Aviation, to ATSCOM. Four general schedule employees were realigned from F Company, GSM, 58th Aviation, to ATSCOM.

10. The mission of Company F, GSM, 58th Aviation was, and is, to assume normal property responsibility and perform operator maintenance on Airspace and Air Traffic Services equipment (ATS) on hand receipt from USAAVNC located on or associated with mission airfields on Fort Rucker. The unit also performs higher echelon maintenance repair for USAAVNC ATS equipment on a parts/labor cost reimbursable basis (includes tactical ATS equipment repair).
11. In summary, the creation of ATSCOM included the following transfers from USAAVNC to ATSCOM: U.S. Army Air Traffic Control Activity transferred from USAAVNC into the FORSCOM ATSCOM; the 1-11 Aviation Battalion (ATS) was transferred from Aviation Training Brigade (ATB) (now known as 110th Aviation Brigade) to FORSCOM ATSCOM; and Company F, GSM, 58th Aviation under FORSCOM but assigned to Fort Rucker, was assigned to FORSCOM ATSCOM.
12. The mission and function of USAAVNC has not changed subsequent to the transfer of the afore-described units to the FORSCOM, ATSCOM, Fort Rucker, Alabama. Activities currently assigned to Fort Rucker, Alabama are USAAVNC, Installation Management Agency (IMA) and organizations assigned to each; FORSCOM, ATSCOM; U.S. Army Contracting Agency; U.S. Army Dental Command; U.S. Army Community Hospital; U.S. Army Combat Readiness Center (formerly known as the U.S. Army Safety Center); and U.S. Army Technical Test Center.
13. The mission of ATSCOM is to provide Airspace and Air Traffic Services (ATS) Support/Expertise to Army Warfighters, Major Army Commands (MACOMS) and Installations Worldwide; to ensure safety of operations, standardization, and Controller/Unit Certification of Army Air Traffic Control (ATC); to develop/provide functional area support/expertise to meet Army Airspace/ATS requirements in joint/combined environments and National/International airspace. ATSCOM's mission essential task listing includes: providing Airspace and Air Traffic Services assistance to support Major Combat Operations (MCOs); deploying Airspace and Air Traffic Services Subject Matter Experts (SMEs) to support Warfighters, MACOMS, and Installations Worldwide; deploying Airspace and Air Traffic Services Maintenance Response Teams to MCOs; executing Airspace and Air Traffic Services Quality Assurance Program for Warfighters, MACOMS, and Installations Worldwide; executing training and readiness oversight of Airspace and Air Traffic RC units; and executing Support and Sustainment Operations of all Airspace and Air Traffic Systems and Subsystems Worldwide.

14. Transfer of the resources into ATSCOM linked transferring mission-related air traffic control operator and maintainer support personnel from USAAVNC to ATSCOM. The remainder of ATSCOM, F-58 Aviation's mission continues to provide these services, formerly provided by USAAVNC, as follows:
 - Army-wide Airspace and Air Traffic Services (providing command and control over units assigned conducting Airspace and Air Traffic Services operations and maintenance functions) except for those specific areas assigned to the U. S. Army Installation Management Agency;
 - Airspace and Air Traffic Services Assessment and Subject Matter Experts support to Installation Management Agency (IMA); and
 - Plan, maintain, and execute Airspace and Air Traffic Services operations in support of the USAAVNC's Airspace and Air Traffic Services requirements.
15. As described above, a portion of the USAAVNC bargaining unit represented by WMTC and a portion of the USSAAVNC bargaining unit represented by AFGE, Local 1815, were realigned to a new organization, ATSCOM. After the realignment, ATSCOM acquired a total of 4 eligible Wage Grade bargaining unit employees (formerly part of the unit described in paragraph 1) and 91 eligible General Schedule bargaining unit employees (formerly part of the unit described in paragraph 2).
16. The realignment resulted in the administrative transfer of employees who were part of bargaining units represented by WMTC and AFGE Local 1815, respectively, into ATSCOM. This transfer did not involve a significant physical movement of any affected employees. The basic mission, function, and job duties of these employees have not changed due to the transfer of functions from the former activity to ATSCOM. The employees at issue maintain their titles, grades, positions, and position descriptions and perform the same duties and functions under substantially similar working conditions. The employees support the same general mission and report to the same work location as before, and the supervisory structure, at least with regard to the first-level and second-level supervisors, remains relatively unchanged.
17. Labor relations and human resources functions for the transferred employees continue to be performed by the local civilian personnel office at the USAAVNC. Grievances continue to be processed in general accordance with past practice and the terms of the collective bargaining agreement. Payroll services for the employees continue to be provided by the Defense Finance and Accounting Service. Likewise personnel policies and programs for these employees continue to be issued from the Office of the Assistant G-1 for Civilian Personnel Policy. In addition, the area of consideration for

merit promotion and reduction-in-force purposes has not changed, and the ATSCOM organization has agreed to keep the working conditions *status quo* pending resolution of unit questions. Any changes to conditions of employment will be made in conformance with the Federal Service Labor-Management Relations Statute (the Statute) and the applicable collective bargaining agreement.

18. At some point unknown to the parties, the United States Army Communications Command Agency was abolished and its employees were reassigned to the United States Army Aviation Center.
19. At some point unknown to the parties, the United States Army Troop Support Agency was abolished and its employees were reassigned to the Defense Commissary Agency.

III. ANALYSIS AND CONCLUSIONS

Successorship involves a determination of the status of a bargaining relationship between an agency or activity that acquires employees in a previously-existing bargaining unit pursuant to a reorganization, and a labor organization that exclusively represented those employees prior to their transfer. In Naval Facilities Engineering Service Center, Port Hueneme, 50 FLRA 363, 368 (1995) (Port Hueneme), the Authority recognized that a transferred unit of bargaining unit employees may expand to include previously unrepresented employees under successorship principles. Id. at 370. To accommodate the statutory requirement that an exclusive representative be chosen by the majority of bargaining unit employees, the Authority established three criteria to determine whether a secret ballot election is necessary to determine the representation rights of employees transferred to a new employing entity from a previous employing entity. Id. at 370. The Authority will find that:

[A] gaining entity is a successor, and a union retains its status as the exclusive representative of employees who are transferred to the successor when:

- (1) an entire recognized unit, or a portion thereof, is transferred and the transferred employees: (a) are in an appropriate bargaining unit under section 7112(a)(1) of the Statute; and (b) constitute a majority of the employees in such unit;
- (2) the gaining entity has substantially the same organizational mission as the losing entity, with the transferred employees performing substantially the same duties and functions under substantially similar working conditions in the gaining entity; and
- (3) the circumstances do not demonstrate that an election is necessary to determine representation.

Id. at 368.

The Authority has held that the second prong of Port Hueneme is satisfied when a continuity of mission exists and the transferred employees' duties have remained substantially the same. See e.g. Dep't of the Army, U.S. Army Aviation Missile Command (AMCOM), Redstone Arsenal, Al, 56 FLRA 126, 130 (2000) (AMCOM II) (additional functions that were performed on missile systems were substantially the same). In regard to the third prong of Port Hueneme, the Authority has held that successorship exists when an election is not necessary. Port Hueneme, 50 FLRA at 373.

In accordance with the analytical framework announced by the Authority in Port Hueneme, and in accordance with the stipulations of the parties and the record as a whole, I FIND that the employees who transferred to ATSCOM from USAAVNC constitute an appropriate unit and accordingly,

- (a) that it is appropriate to add the unit of wage grade ATSCOM employees to the consolidated unit of wage grade bargaining unit employees (described in paragraph 1 above); and
- (b) that it is appropriate to add the unit of general schedule ATSCOM employees to the consolidated unit of general schedule bargaining unit employees (described in paragraph 2, above).

All of the employees are former employees of USAAVNC. Further, I find that the mission and function of the employees transferred to ATSCOM has not changed and the second prong is satisfied. Finally, since no other labor organization has expressed an interest in representing these employees or has claimed to represent these employees, I find that the third prong is satisfied. Thus, **I FIND** that the United States Department of the Army, United States Army Forces Command, U.S. Army Air Traffic Services Command, Fort Rucker, Alabama is a successor employer under the Statute and

- (a) that WMTC retains its status as the exclusive representative of the wage grade employees who are the subject of this Petition; and
- (b) that Local 1815 retains its status as the exclusive representative of the general schedule employees who are the subject of this Petition.

IV. ORDER

Having found that the United States Department of the Army, United States Army Forces Command, U.S. Army Air Traffic Services Command, Fort Rucker, Alabama is a successor employer under the Statute, **I WILL ISSUE** two separate Amendments of Certifications. One will reflect my finding that ATSCOM is a successor employer of the wage grade employees it acquired and who continue to be represented by Wiregrass Metal Trades Council. The other Amendment of Certification will reflect my finding that ATSCOM is a successor employer of the general schedule employees it acquired and who continue to be represented by the American Federation of Government Employees, AFL-CIO, Local 1815, bargaining unit.

The consolidated unit of wage grade employees represented by Wiregrass Metal Trades Council will read as follows:

INCLUDED: All Wage Grade employees assigned to the U.S. Army Aviation Warfighting Center and Fort Rucker, the U.S. Army Aeromedical Center, the U.S. Army Installation Management Agency (IMA), and the U.S. Army Air Traffic Services Command, Fort Rucker, Alabama.

EXCLUDED: All Wage Grade employees assigned to other tenant activities; all General Schedule nonprofessional nonsupervisory employees, professional employees, guards, and employees defined in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

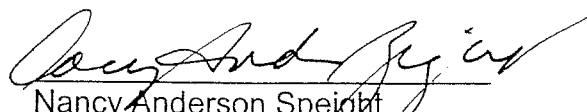
The consolidated unit of general schedule employees represented by American Federation of Government Employees, Local 1815, AFL-CIO, will read as follows:

INCLUDED: All nonprofessional nonsupervisory General Schedule employees at the U.S. Combat Readiness Center; all professional and nonprofessional nonsupervisory General Schedule employees of the U.S. Army Aviation Warfighting Center and Fort Rucker; the United States Army Aeromedical Center; the United States Army Dental Command; the U.S. Army Aviation Technical Test Center; the U.S. Army Installation Management Agency (IMA); the U.S. Army Contracting Agency (ACA); and the U.S. Army Air Traffic Services Command, Fort Rucker, Alabama.

EXCLUDED: All employees assigned to other tenant activities, guards, temporary employees, professional employees of the U.S. Army Combat Readiness Center; the Aerospace Engineering Technician GS-0802-7/8/9 position assigned to the Army Aviation Technical Test Center (ATTC) Test Support Directorate (TSD), and employees defined in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

DATED: December 22, 2005

Federal Labor Relations Authority


Nancy Anderson Speight
Regional Director, Atlanta Region